

**Virginia Stormwater
Management Program (VSMP)
and
Regulatory Actions to Amend
Parts II, III, & XIII**

Presented by Eric R. Capps



2004 General Assembly

House Bill 1177

Consolidated Stormwater Management Programs

Department of Conservation and Recreation

- Board of Conservation and Recreation

- Virginia Soil and Water Conservation Board

Department of Environmental Quality

- State Water Control Board

Chesapeake Bay Local Assistance Department

- Chesapeake Bay Local Assistance Board

Consolidation: 2 Step Process

1st Step

Transfer to VSWCB & DCR

- Effective - January 29, 2005

2nd Step

Transfer Stormwater Permitting to Localities

- Requires EPA approval

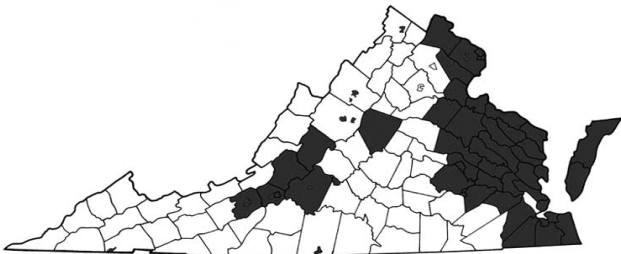
1st Step - Important Facts

- Stormwater Management for quality and quantity became mandatory statewide on January 29, 2005 for land-disturbing activities of one acre or greater (2,500 sq ft CBPA) or part of a common plan of development.
- VSWCB & DCR responsible for the program.

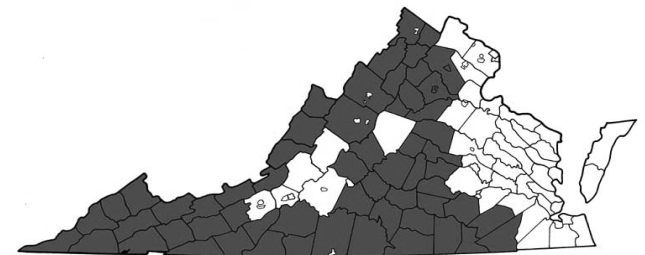
2nd Step - Locality Impacts

- Localities with MS4 permits and localities within the CBPA Area must adopt a local stormwater management program 12-18 months after regulations are final.
- Localities not covered by a MS4 permit or not within the CBPA Area may elect to adopt a local stormwater management program.

Localities required to establish local stormwater management program by July 1, 2006.



Localities which may adopt local stormwater programs and required to notify DCR of intention by July 1, 2005



In absence of local stormwater programs, DCR will administer stormwater requirements for locality.

2nd Step - Construction Permits

- Localities that adopt an approved local stormwater management program will issue the General Permit for Discharges of Stormwater from Construction Activities.
- DCR will implement the local stormwater program and continue to issue the General Permit in localities not electing to adopt an approved stormwater management program.

Construction Activities Permitting

A General Permit is required for stormwater discharges associated with land-disturbing activities.

- Large sites: ≥ 5 acres
- Small sites: ≥ 1 acre < 5 acres
- Bay Act Area: $\geq 2,500$ sqft < 1 acre
- Common plan of development



General Permit Fees

Fees to Cover Program Costs

≥ 5 acres - \$500

≥ 1 acre < 5 acres - \$300

$\geq 2,500$ sqft < 1 acre - no fee

Common Plan of Development - \$300 or \$500



Next Steps

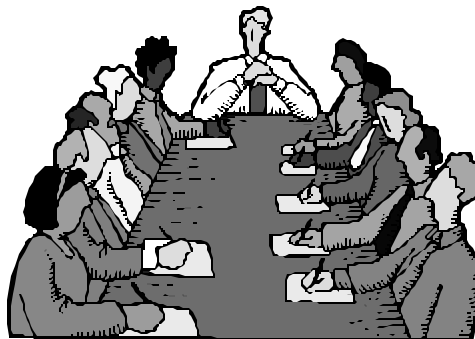
- Regulations & Model Ordinance for SWM Program
- Fee Schedule – Revision
- GP to Localities - EPA Approval

Notice of Intended Regulatory Action (NOIRA)

1. Part II: Stormwater Management Program
Technical Criteria;
Part III: Local Programs; Board
Delegation Procedures
2. Part XIII: Fees

Technical Advisory Committee (TAC)

- Committee has been established
- Committee has meet, discussed, and drafted Parts II, III, and XIII
- <http://www.dcr.virginia.gov/lawregs.shtml>



Part II Stormwater Management

Technical Criteria (Draft Language)

Authority and applicability 4VAC50-60-40

Virginia Stormwater Management Law

- Board to take action to protect the quality and quantity of state waters from unmanaged stormwater
- Regulations that specify the minimum technical criteria for a stormwater management program
- Establish statewide standards for stormwater management from land-disturbing activities and to protect properties, water quality, stream channels, and other natural resources

Part II SWM Technical Criteria for Local Programs (Draft)

Water quality 4VAC50-60-63A

- Requires a local program to incorporate & apply minimum nitrogen (N) & phosphorus (P) standards and criteria to control nonpoint source pollution
- New development post-development pollutant loads shall not exceed:
 - 0.28 pounds total P/acre/year
 - 2.68 pounds total N/acre/year



Part II SWM Technical Criteria (Draft)

Water quality 4VAC50-60-63A

- Prior developed land post-development pollutant loads shall be reduced from pre-existing conditions:
 - 44% total P
 - 28% total N
- Pollutant load for prior developed lands shall not be required to be reduced to less than.
 - 0.28 pounds total P/acre/year
 - 2.68 pounds total N/acre/year

Part II SWM Technical Criteria (Draft)

Water quality 4VAC50-60-63B

- Offsite Pollutant Controls
 - If allowed by the local program
 - Applicant must demonstrate allowable pollutant load cannot be met onsite



Part II SWM Technical Criteria (Draft)

Water quality 4VAC50-60-63B

Before going offsite:

- New development post-development pollutant loads shall not exceed:
 - 0.37 pounds total P/acre/year
 - 3.50 pounds total N/acre/year
- Prior developed land post-development pollutant loads shall be reduced from pre-existing conditions:
 - 33% total P
 - 21% total N

Part II SWM Technical Criteria (Draft)

Water quality 4VAC50-60-63B & C

- Offsite Pollutant Controls
 - Remaining reductions met in same or adjacent downstream Hydrologic Unit Code
 - Locality may allow for a pro-rata fee to achieve remaining reductions
- Reduction of impervious and LID measures should be used to achieve the water quality technical criteria

Part II SWM Technical Criteria (Draft)

Water quantity 4VAC50-60-66A

- Requires properties and state waters be protected from sediment deposition, erosion and damage due to changes in the rate of flow and hydrologic characteristics including but not limited to:
 - Volume
 - Velocity
 - Frequency
 - Duration
 - Peak flow rate



Part II SWM Technical Criteria (Draft)

Water quantity 4VAC50-60-66B

- Maintain post-development runoff rate of flow and runoff characteristics that replicate, as nearly as practicable, existing predevelopment runoff characteristics and hydrology, or
- If stream channel erosion or localized flooding is an existing predevelopment condition the land disturbing activity shall improve upon the contributing share of the existing predevelopment runoff characteristics and hydrology, or

Part II SWM Technical Criteria (Draft)

Water quantity 4VAC50-60-66C

- Requirements may be satisfied by:
 1. Detain the water quality volume and to release it over 48hrs
 2. Detain and release over a 24-hour period the expected rainfall resulting from the one year, 24 hour storm; and
 3. Reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming that it was in good forested condition,



Part II SWM Technical Criteria (Draft)

Water quantity 4VAC50-60-66D & E

- Determining Compliance
 - Stream characteristics verified by survey
 - Calculations for each discharge point
 - Predevelopment computation assume all pervious prior to development in good condition
- Reduction of impervious and LID measure should be used to achieve the water quantity technical criteria

Part II SWM Technical Criteria (Draft)

Design storms 4VAC50-60-73

- Shall be a 2 and 10 year 24-hour storm
- Site specific rainfall distribution recommended by the Natural Resource Conservation Service
- May allow for use of the Modified Rational Method



Part II SWM Technical Criteria (Draft)

Stormwater management impoundment structures or facilities 4VAC50-60-83

- Should be avoided in tidal & nontidal wetlands & perennial streams
- Should avoid designated 100-year floodplain
- Designed for the 100-year storm event
- Geological studies required in karst areas
- No adverse environmental impacts to karst features

Part II SWM Technical Criteria (Draft)

Riparian buffers 4VAC50-60-86

- Requires a Riparian Buffer Plan
 - Protection strategies for existing buffers
 - Establishment of new buffers
 - 35 foot minimum
- This section does not diminish applicability of any other state law including the Chesapeake Bay Preservation Act



Part IIIA Local Programs (Draft)

- Specifies minimum technical criteria for a locality administered stormwater management program
 - Administrative
 - Plan review
 - Issuance of coverage under the VSMP permit
 - Inspection
 - Enforcement

Part IIIA Local Programs (Draft)

Administrative requirements 4VAC50-60-106A

- Identify the permit issuing, plan approving, inspection, and enforcement authority
- Regulations and technical criteria used
- Procedure for submission and plan review
- Procedures for stormwater permits
- Fees
- Inspections for compliance
- Long-term BMP inspection
- Enforcement



Part IIIA Local Programs (Draft)

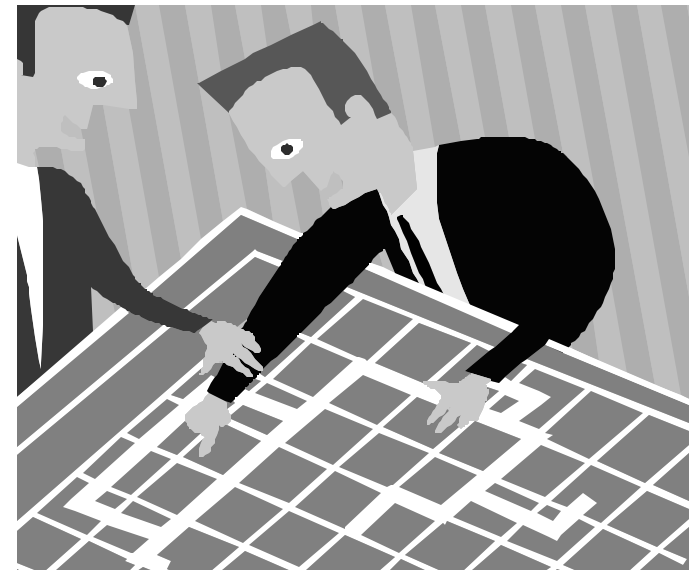
Plan review 4VAC50-60-108A & B

- Approved plan required prior to land disturbance
- Complete plan required prior to review
 - Contact information
 - Narrative describing site and proposed BMP
 - Location & design of BMP
 - Soil properties utilized
 - Identification of receiving water and drainage patterns
 - Pre & post calculation for design storms
 - BMP access, inspections & maintenance agreements
 - Certification

Part IIIA Local Programs (Draft)

Plan review 4VAC50-60-108B

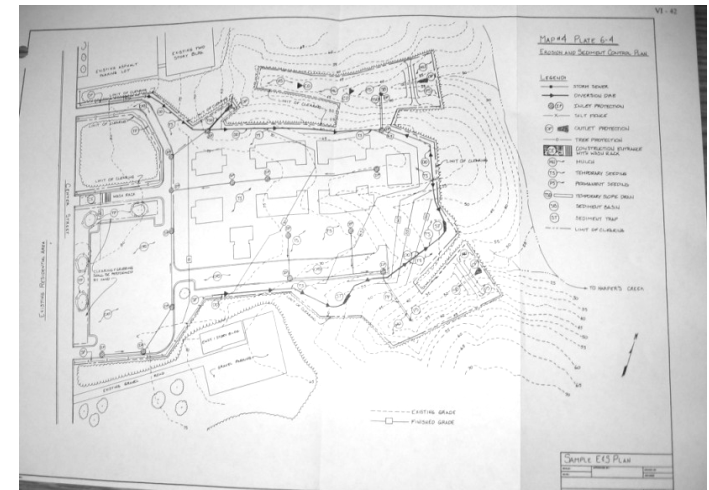
- 15 calendar days to determine completeness
- 60 calendar days to review a complete plan
- Approval and disapproval notification in writing
- No action taken in 60 calendar days plan is deemed approved



Part IIIA Local Programs (Draft)

Plan review 4VAC50-60-108C

- Initial stormwater plan
 - If allowed by the local program
 - Approved erosion and sediment control plan required
 - Limited to initial clearing and grading of site
 - Complete stormwater plan required
 - Map
 - Narrative
 - Soil properties utilized
 - Environmentally sensitive sites



Part IIIA Local Programs (Draft)

Plan review 4VAC50-60-108D

- Changes to approved plan not based on field inspections
 - Review & written approval by the local program
 - 30 calendar days to approve
- Changes to approved plan based on field inspections
 - Responsible party may request
 - Local program 15 calendar days to respond in writing
 - Local program may require amendments

Part IIIA Local Programs (Draft)

Issuance of general permit 4VAC50-60-112

- Issuance in a format determined by the Department
- Requires approved stormwater management plan
- Complete registration statement
- Fee form and required fee
- Incomplete notification of applicant in 3 working days
- Locality reports general permit coverage to the Department



Part IIIA Local Programs (Draft)

Inspections 4VAC50-60-114

- Local program conducts during construction of stormwater BMP
- As built survey required from person responsible
- Inspections required by operator after completion
 - Inspection schedule & maintenance agreement
- Local program inspects annually or in accordance with a Board approved alternative inspection program
- Right of entry allowed to local program

Part IIIA Local Programs (Draft)

Enforcement 4VAC50-60-116

- Local program shall incorporate:
 - Informal & formal administrative procedures
 - > Verbal warning & inspection reports
 - > Notice to comply
 - > Notice of corrective action
 - > Consent & emergency orders & civil charges
 - Civil & criminal judicial procedures
 - > Civil penalties & injunctions
- The Board has authority to enforce the provision of the stormwater law & attendant regulations

Part IIIA Local Programs (Draft)

BMP maintenance 4VAC50-60-124

- Operation and maintenance remains with the operator
- If conveyed must be by legal binding agreement
- If BMP is not maintained
 - Locality can perform maintenance
 - Recover cost from owner
- Locality shall require right of entry agreements
- Flow and drainage patterns must be maintained or changes approved by the local program

Part IIIB DCR Administered Local Programs (Draft)

4VAC50-60-128 through 4VAC50-60-154

- Same requirements as local programs
- Except
 - Additional information required for plan review
 - Initial stormwater plan not allowed
 - 10 working days allowed for notification of incomplete registration statements



Part IIIC DCR Local Programs

Review Procedure (Draft)

4VAC50-60-157

- DCR shall review once every five years to determine consistency with state law & regulations
- Review local ordinance & applicable documents
- Stormwater plans for consistency
- Inspections of regulated activities
- Enforcement actions



Part IIID DCR Delegation Procedure for Local Programs (Draft)

4VAC50-60-159A

- Local program must submit an application package
- Submitted to the Board
- Application package includes
 - Local program ordinance
 - Funding & Staffing
 - Policies & procedures



Part IIID DCR Delegation Procedure for Local Programs (Draft)

4VAC50-60-159B

- Board or designee has 15 calendar days to determine completeness
- Incomplete packages notice provided in writing
- Board or designee has 90 calendar days to approve or disapprove the application
- Notice provided to locality in writing

Part XIII Fees (Draft)

- Establishes state wide fee schedule for MS4 permits & Stormwater Discharges from Construction Activities (General & Individual)
- Establishes collection and distribution system
- Establishes fees for permit modification & transfer



Part XIII Fees (Draft)

Deposit and use of fee 4VAC50-60-780

- All fees collected deposited to nonreverting fund
- Fees collected by the Department deposited into the Virginia Stormwater Management Fund
- Fees collected by local program used to carry out the regulations
- 30% of total revenue generated by fees by local programs remitted to the State Treasury

Part XIII Fees (Draft)

MS4 fees for permit issuance 4VAC50-60-800

	Current	Proposed
MS4 Individual (Large & Medium)	\$21,300	\$12,000
MS4 Individual (Small)	\$2,000	\$6,000
MS4 General Permit (Small)	\$600	\$2,700

MS4 fees for permit modifications 4VAC50-60-810

	Current	Proposed
MS4 Individual (Large & Medium)	\$10,650	\$4,000
MS4 Individual (Small)	\$1,000	\$2,000

Part XIII Fees (Draft)

Construction activity permit fees 4VAC50-60-820

Individual or General Permit Phase I greater than five acres	DCR Administered	Locality Administered
> 100 acres	\$6,877	\$9,824
= 50 acres less than 100 acres	\$4,357	\$6,224
= 10 acres less than 50 acres	\$2,427	\$3,467
= 5 acres less than 10 acres	\$2,427	\$3,467

Part XIII Fees (Draft)

Construction activity permit fees 4VAC50-60-820

General Permit	DCR	Locality
Phase II less than five acres	Administered	Administered
= 1 acre less than 5 acres	\$1,971	\$2,816
= 0.5 acre less than 1 acre	\$1,073	\$1,533
= 2,500 sq.ft. less than 0.5 acre	\$210	\$300
Areas within common plan of development or sale < 1 acre	\$210	\$300
Individual Permit	\$15,000	NA

Part XIII Fees (Draft)

- Modification or transfer of individual or general permits for discharges of stormwater from construction activities fees 4VAC50-60-825
 - General \$21 - \$688
 - Individual \$5,000
- Permit maintenance fees 4VAC50-60-830
 - General \$42 - \$871
 - Individual \$3,000
 - MS4 \$2,000 - \$8,000

